



March 25, 2005

ENGROSSED SENATE BILL No. 222

DIGEST OF SB 222 (Updated March 24, 2005 10:55 am - DI 97)

Citations Affected: IC 27-8; noncode.

Synopsis: Preexisting condition waivers. Provides that individual and certain group policies of accident and sickness insurance may contain a waiver of coverage for a specified condition under certain circumstances. Specifies that an offer of coverage under a policy that includes a waiver does not preclude eligibility for a comprehensive health insurance association policy.

Effective: July 1, 2005.

Miller, Paul, Riegsecker

(HOUSE SPONSORS — TORR, RIPLEY, BROWN C, NOE)

January 4, 2005, read first time and referred to Committee on Health and Provider Services.

January 13, 2005, amended, reported favorably — Do Pass.

January 24, 2005, read second time, amended, ordered engrossed.

January 25, 2005, engrossed. Read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Insurance.

March 24, 2005, amended, reported — Do Pass.

C
o
p
y

ES 222—LS 7210/DI 97+



March 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 222

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-8-5-2.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 2.7. (a) Notwithstanding section 2.5 of this chapter**
4 **and any other law, an individual policy of accident and sickness**
5 **insurance may contain a waiver of coverage for a specified**
6 **condition and complications that arise from the specified condition**
7 **if all the following conditions are met:**

8 (1) **The insurer provides to the applicant before issuance of**
9 **the policy a written notice explaining the waiver of coverage**
10 **for the specified condition and complications arising from the**
11 **specified condition.**

12 (2) **The:**

13 (A) **offer of coverage; and**

14 (B) **policy;**

15 **include the waiver in a separate section stating in bold print**
16 **that the applicant is receiving coverage with an exception for**
17 **the waived condition.**

ES 222—LS 7210/DI 97+



C
o
p
y

(3) The:

(A) offer of coverage; and

(B) policy;

do not include more than two (2) waivers per individual.

(4) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(5) The insurer agrees to review the waiver upon request if:

(A) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and

(B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;

for at least two (2) years.

(6) The insurer discloses to the applicant that the applicant may decline the offer of coverage and apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(7) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

The insurer shall require an applicant to initial the written notice provided under subdivision (1) and the waiver included in the offer of coverage and in the policy under subdivision (2) to acknowledge acceptance of the waiver of coverage. An offer of coverage under a policy that includes a waiver under this subsection does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.

(b) Notwithstanding subsection (a), an individual policy of accident and sickness insurance may not include a waiver of coverage for a:

(1) mental health condition; or

(2) developmental disability.

SECTION 2. IC 27-8-5-19.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19.3. (a) This section applies to an association or a discretionary group policy of accident and sickness insurance:

(1) under which a certificate of coverage is issued to an individual member of the association or discretionary group;

(2) under which a member of the association or discretionary

C
o
p
y



group is individually underwritten; and

(3) that is not employer based.

(b) Notwithstanding sections 19 and 19.2 of this chapter and any other law, a policy described in subsection (a) may contain a waiver of coverage for a specified condition and complications that arise from the specified condition if all the following conditions are met:

(1) The insurer provides to the applicant before issuance of the certificate a written notice explaining the waiver of coverage for the specified condition and complications arising from the specified condition.

(2) The:

(A) offer of coverage; and

(B) certificate of coverage;

include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition.

(3) The:

(A) offer of coverage; and

(B) certificate of coverage;

do not include more than two (2) waivers per individual.

(4) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(5) The insurer agrees to review the waiver upon request if:

(A) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and

(B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;

for at least two (2) years.

(6) The insurer discloses to the applicant that the applicant may decline the offer of coverage, and that any individual to whom the waiver would have applied may apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(7) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

(c) The insurer shall require an applicant to initial the written

C
o
p
y



notice provided under subsection (b)(1) and the waiver included in the offer of coverage and in the certificate of coverage under subsection (b)(2) to acknowledge acceptance of the waiver of coverage.

(d) An offer of coverage under a policy that includes a waiver under this section does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.

(e) Notwithstanding subsection (b), a policy described in subsection (a) may not include a waiver of coverage for a:

(1) mental health condition; or

(2) developmental disability.

SECTION 3. IC 27-8-10-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.1. (a) A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.

(b) Except as provided in subsection (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. However, an offer of coverage described in IC 27-8-5-2.5(e), ~~or IC 27-8-5-2.7,~~ IC 27-8-5-19.2(e), **or IC 27-8-5-19.3** does not affect an individual's eligibility for an association policy under this subsection. Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

(c) Except as provided in IC 27-13-16-4 and subsection (a), a person is eligible for an association policy upon a showing that:

(1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;

(2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or

(3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

(d) Coverage under an association policy terminates as follows:

C
o
p
y



(1) On the first date on which an insured is no longer a resident of Indiana.

(2) On the date on which an insured requests cancellation of the association policy.

(3) On the date of the death of an insured.

(4) At the end of the policy period for which the premium has been paid.

(5) On the first date on which the insured no longer meets the eligibility requirements under this section.

(e) An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

(1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and

(2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

(f) An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

(g) Except as provided in subsection (h), an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical

C
O
P
Y



advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(h) If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection (c), then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(i) For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 4. [EFFECTIVE JULY 1, 2005] IC 27-8-5-2.7 and IC 27-8-5-19.3, both as added by this act, apply to a policy of accident and sickness insurance that is issued or delivered after June 30, 2005.

**C
o
p
y**



SENATE MOTION

Madam President: I move that Senator Paul be added as second author of Senate Bill 222.

MILLER

SENATE MOTION

Madam President: I move that Senator Riegsecker be added as coauthor of Senate Bill 222.

MILLER

C
O
P
Y



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 222, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 5 through 7.

Page 4, delete lines 40 through 42.

and when so amended that said bill do pass.

(Reference is to SB 222 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 2.

C
o
p
y



SENATE MOTION

Madam President: I move that Senate Bill 222 be amended to read as follows:

Page 1, line 7, after "(1) the" insert "**waiver**".

Page 1, line 7, delete "for which the exemption would be in effect".

Page 3, between lines 4 and 5, begin a new paragraph and insert:

"(d) An insurer that removes a waiver under subsection (a)(2)(E) shall not consider the condition or any complication to which the waiver previously applied in making policy renewal and underwriting determinations.

(e) Upon the expiration of the waiver period allowed under this section, the insurer:

(1) shall remove the waiver;

(2) shall not consider the condition or any complication to which the waiver previously applied in making policy underwriting determinations; and

(3) shall renew the policy in accordance with 45 CFR 148.122."

Page 3, line 19, after "(1) the" insert "**waiver**".

Page 3, line 19, delete "for which the exemption would be in effect".

Page 4, between lines 36 and 37, begin a new paragraph and insert:

"(g) An insurer that removes a waiver under subsection (b)(2)(E) shall not consider the condition or any complication to which the waiver previously applied in making policy renewal and underwriting determinations.

(h) Upon the expiration of the waiver period allowed under this section, the insurer:

(1) shall remove the waiver;

(2) shall not consider the condition or any complication to which the waiver previously applied in making policy underwriting determinations; and

(3) shall renew the policy in accordance with 45 CFR 148.122."

(Reference is to SB 222 as printed January 14, 2005.)

MILLER

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Senate Bill 222, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "," and insert "**and any other law,**".

Page 1, line 6, delete ":".

Page 1, delete line 7.

Page 1, line 8, delete "(2)".

Page 1, run in lines 6 through 8.

Page 1, line 9, delete "(A)", begin a new line block indented and insert:

"(1)".

Page 1, line 12, delete ", including a specific" and insert ".".

Page 1, delete lines 13 through 14.

Page 1, line 15, delete "(B)", begin a new line block indented and insert:

"(2)".

Page 1, line 16, delete "(i)", begin a new line double block indented and insert:

"(A)".

Page 1, line 17, delete "(ii)", begin a new line double block indented and insert:

"(B)".

Page 2, line 1, beginning with "include" begin a new line block indented.

Page 2, line 3, delete "and specifying each" and insert ".".

Page 2, delete lines 4 through 5.

Page 2, line 6, delete "(C)", begin a new line block indented and insert:

"(3)".

Page 2, line 7, delete "(i)", begin a new line double block indented and insert:

"(A)".

Page 2, line 8, delete "(ii)", begin a new line double block indented and insert:

"(B)".

Page 2, line 9, beginning with "do" begin a new line block indented.

Page 2, line 10, delete "(D)", begin a new line block indented and insert:

"(4)".

C
o
p
y



Page 2, line 13, delete "(E)", begin a new line block indented and insert:

"(5)".

Page 2, line 13, delete ":" and insert **"review the waiver upon request if:**

(A) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and

(B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;

for at least two (2) years."

Page 2, delete lines 14 through 17.

Page 2, line 18, delete "(F)", begin a new line block indented and insert:"

"(6)".

Page 2, delete lines 22 through 23.

Page 2, line 24, delete "(H)", begin a new line block indented and insert:

"(7)".

Page 2, line 28, delete "(2)(A)" and insert **"(1)".**

Page 2, line 29, delete "(2)(B)" and insert **"(2)".**

Page 2, delete lines 35 through 42, begin a new paragraph and insert:

"(b) Notwithstanding subsection (a), an individual policy of accident and sickness insurance may not include a waiver of coverage for a:

(1) mental health condition; or

(2) developmental disability."

Page 3, delete lines 1 through 14.

Page 3, line 19, delete "after June".

Page 3, line 20, delete "30, 2005,".

Page 3, line 25, delete "," and insert **"and any other law,".**

Page 3, line 28, delete ":".

Page 3, delete line 29.

Page 3, line 30, delete "(2)".

Page 3, run in lines 28 through 30.

Page 3, line 31, delete "(A)", begin a new line block indented and insert:

"(1)".

Page 3, line 34, delete ", including a specific" and insert ".".

**C
O
P
Y**



Page 3, delete lines 35 through 36.

Page 3, line 37, delete "(B)", begin a new line block indented and insert:

"(2)".

Page 3, line 38, delete "(i)", begin a new line double block indented and insert:

"(A)".

Page 3, line 39, delete "(ii)", begin a new line double block indented and insert:

"(B)".

Page 3, line 40, beginning with "include" begin a new line block indented.

Page 3, line 42, delete "and specifying each" and insert ".".

Page 4, delete lines 1 through 2.

Page 4, line 3, delete "(C)", begin a new line block indented and insert:

"(3)".

Page 4, line 4, delete "(i)", begin a new line double block indented and insert:

"(A)".

Page 4, line 5, delete "(ii)", begin a new line double block indented and insert:

"(B)".

Page 4, line 6, beginning with "do" begin a new line block indented.

Page 4, line 7, delete "(D)", begin a new line block indented and insert:

"(4)".

Page 4, line 10, delete "(E)", begin a new line block indented and insert:

"(5)".

Page 4, line 10, delete ":" and insert **"review the waiver upon request if:**

(A) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and

(B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;

for at least two (2) years."

Page 4, delete lines 11 through 14.

Page 4, line 15, delete "(F)", begin a new line block indented and

C
o
p
y



insert:

"(6)".

Page 4, line 16, after "and" insert "**that**".

Page 4, delete lines 20 through 21.

Page 4, line 22, delete "(H)", begin a new line block indented and insert:

"(7)".

Page 4, line 26, delete "(b)(2)(A)" and insert "**(b)(1)**".

Page 4, line 28, delete "(b)(2)(B)" and insert "**(b)(2)**".

Page 4, delete lines 30 through 41.

Page 4, line 42, delete "(f)" and insert "**(d)**".

Page 5, delete lines 4 through 14, begin a new paragraph and insert:

"(e) Notwithstanding subsection (b), a policy described in subsection (a) may not include a waiver of coverage for a:

(1) mental health condition; or

(2) developmental disability."

Page 7, delete lines 21 through 42.

Delete pages 8 through 9.

Page 10, delete lines 1 through 9.

Page 10, line 10, delete "," and insert "**and IC 27-8-5-19.3, both**".

Page 10, line 11, delete "applies" and insert "**apply**".

Page 10, delete lines 13 through 42.

Delete page 11.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 222 as reprinted January 25, 2005.)

RIPLEY, Chair

Committee Vote: yeas 5, nays 3.

C
o
p
y

